

1 IN THE UNITED STATES BANKRUPTCY COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 HOUSTON DIVISION

4 IN RE: § CASE NO. 22-90341-11
5 CORE SCIENTIFIC, INC., § JOINTLY ADMINISTERED
ET AL, § HOUSTON, TEXAS
6 § MONDAY,
§ MAY 22, 2023
DEBTORS. § 1:30 P.M. TO 2:40 P.M.

7 **MOTIONS HEARING (VIA ZOOM)**

8 BEFORE THE HONORABLE DAVID R. JONES
9 UNITED STATES BANKRUPTCY JUDGE

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12 APPEARANCES: SEE NEXT PAGE

13 **(RECORDED VIA COURTSPEAK)**

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(Please also see Electronic Appearances.)

1 **HOUSTON, TEXAS; MONDAY, MAY 22, 2023; 1:30 P.M.**

2 THE COURT: Okay, good afternoon everyone. This
3 is Judge Jones. The time is 1:30 Central. Today is May the
4 22nd, 2023. This is the Docket for Houston, Texas.

5 On the 1:30 Docket we have the jointly
6 administered cases under Case No. 22-90341, Core Scientific,
7 Inc.

8 Folks, please don't forget to record your
9 electronic appearance. That's a quick trip to the website.
10 You can do that at any time prior to the conclusion of the
11 hearing.

12 I have activated the hand-raising feature, so if
13 you know you're going to be speaking, if you'd go ahead and
14 give me a five star on your telephone, I'll get you unmuted.

15 First time that you do speak, if you would, please
16 state your name and who you represent. That really helps
17 the court reporter.

18 And if you are in the courtroom this afternoon, if
19 you'd please and try and make sure that you come to the
20 lectern to speak just everyone can both see you and hear
21 you.

22 Finally, we are recording using CourtSpeak. We'll
23 have the audio up on the Docket shortly after the conclusion
24 of this afternoon's hearing.

25 And with that, all right, I think I have

1 everybody.

2 Mr. Perez, coming to the lectern. Wow, it's an
3 honor.

4 MR. PEREZ: Good afternoon, Your Honor. Alfredo
5 Perez on behalf of the Debtors.

6 Your Honor, Mr. Schrock apologizes for not being
7 able to be here. Apparently there was an order entered in
8 another case compelling him to attend a settlement --

9 THE COURT: Oh, that's right. I signed that,
10 didn't I? Okay, fair enough he doesn't have --

11 MR. PEREZ: And he trusted me enough for me to
12 handle the uncontested matters. And then Ms. Berkovich, my
13 partner, will handle the only contested matter left.

14 But I do, before I get started, I wanted to
15 introduce Ms. Berkovich who's going to handle exclusivity.
16 Austin Crabtree who will be --

17 (Electronic noise.)

18 THE COURT: Keep going. I had somebody with a
19 really soft voice so I had turned -- I had turned the volume
20 way up.

21 MR. PEREZ: I'll be a whisper.

22 THE COURT: There's such a response to that.

23 (Laughter)

24 MR. PEREZ: So, Your Honor, Mr. Austin Crabtree,
25 who's going to be handling the exhibits.

1 And then I also wanted to introduce Ash Media
2 (phonetic). Why don't you stand up? He's one of John
3 Singh's minions with PJT. So he's here for that.

4 So with that, Your Honor, if I could just kind of
5 proceed through the Agenda?

6 THE COURT: Certainly.

7 MR. PEREZ: And I want to take them in reverse
8 order though for -- I don't know exactly what reason we
9 ended up putting the contested matter first.

10 But if I could go to the uncontested matters. And
11 the first one we have is the Debtors' motion to quash, the
12 Spear 3D, Rule 2004.

13 Your Honor, we've had extensive discussions with
14 counsel for Spear 3D. They are going to withdraw their 2004
15 as a result our motion to quash will be moot. That will all
16 be reflected in a stipulation.

17 I believe counsel is here to confirm that.

18 THE COURT: Ms. Harper, come on up, please ma'am.

19 Good afternoon.

20 MS. HARPER: Good afternoon, Your Honor, Ashley
21 Harper, Hunton Andrews Kurth on behalf of Spear 3D Corp.
22 Mr. Perez is correct. We will file a stipulation on the
23 Docket after this hearing to memorialize that agreement.

24 THE COURT: Thank you.

25 Is that going to be something that you're going to

1 want me to sign or just between the two parties?

2 MS. HARPER: Because it affects the deadline, it's
3 on the Court's calendar, we would request that Your Honor
4 sign it.

5 THE COURT: If you just let Mr. Alonzo know once
6 it's been uploaded and I will jump right on it.

7 MS. HARPER: Thank you.

8 THE COURT: All right. Thank you.

9 MR. PEREZ: Your Honor, the next matter that we
10 had was a motion to lift stay for a party by the name of
11 North Mail counsel. Their counsel is on the line,
12 Mr. Arisco.

13 We did file a form of a notice of adjournment and
14 I think that has been pushed. And I think that the notice
15 of adjournment is Docket 909.

16 THE COURT: I saw that. Is there anything that
17 you need for me to do or --

18 MR. PEREZ: No, we already have a date for that
19 already, Your Honor. So there's nothing for you to do.

20 THE COURT: All right, thank you.

21 Mr. Arisco, is there anything you needed to add or
22 wanted to be heard about?

23 (No audible response.)

24 THE COURT: Mr. Arisco -- ah, hold on. There we
25 go. How about now?

1 MR. ARISCO: Good afternoon, Your Honor.
2 Christopher Arisco on behalf of North Mill.

3 There's nothing further I want to add except for I
4 need to send an email to Mr. Alonzo formally requesting the
5 agreed upon date of July 10th. But other than that, I think
6 we have an agreement to reset.

7 THE COURT: So hold on just one second. He does
8 let me once in a while set my own hearings.

9 MR. PEREZ: It's dangerous.

10 THE COURT: I know. If you -- if the two of you
11 could look at your calendar. Beginning -- it starts right
12 after Labor Day, I teach at TSU on Mondays and Wednesdays.
13 So the mornings go away.

14 But if you could live with the afternoon, July the
15 10th will be just fine.

16 MR. PEREZ: That's good with us, Your Honor.

17 THE COURT: Mr. Arisco, would that work for you?

18 MR. ARISCO: Yes, Your Honor.

19 THE COURT: So let's go ahead and the adjourn date
20 is July the 10th, 2023, at 2:00 o'clock Central.

21 MR. ARISCO: Very good.

22 THE COURT: All right, thank you.

23 MR. PEREZ: Next, Your Honor, is a GEM Mining's
24 emergency motion to compel assumption or rejection.

25 We did file a stipulation on that for the Court's

1 signature. We don't have a date.

2 THE COURT: I saw -- I actually -- I read it this
3 morning and I just didn't know -- I didn't see anything as
4 to dates that you had agreed to, so I decided not to guess.

5 MR. PEREZ: So, Your Honor, Mr. Christian Pereydaa
6 is on the line for GEM. Your Honor, if the Court -- we
7 talked about 30 days.

8 So if the Court has availability on June 21st,
9 that would be acceptable for us and I think it would be
10 acceptable for GEM's counsel as well.

11 THE COURT: All right, is it Pereydaa, am I close?

12 Could you go ahead and hit five star for me so
13 that I can hear you on your phone?

14 (No audible response.)

15 THE COURT: How about now?

16 MR. PEREYDAA: Thank you, Your Honor. Yes,
17 Christian Pereydaa here on behalf of GEM Mining.

18 And June 21st is perfectly fine for our client.

19 THE COURT: Okay, let me -- hold on a second.
20 Because that is a Wednesday, I have exactly the same issue.

21 Could you live with the afternoon?

22 MR. PEREZ: Yes, Your Honor.

23 MR. PEREYDAA: Yes, Your Honor. The afternoon
24 would be fine.

25 THE COURT: All right so I've got the order. And

1 I'm going to interlineate -- so June 21st at 2:00 p.m.
2 Central Time. And if you've talked about the 21st as your
3 hearing date, had you-all talked about an agreement on the
4 objection deadline?

5 MR. PEREZ: I think we already filed our
6 objection, Your Honor.

7 THE COURT: But for the response, I meant. My
8 apologies.

9 MR. PEREZ: I think, you know, three days before
10 is fine, Your Honor.

11 THE COURT: So just normal so that I have a chance
12 to read it, can everybody live with June 14th?

13 MR. PEREZ: Absolutely, Your Honor.

14 THE COURT: Mr. Pereydaa, are you okay with that?

15 MR. PEREYDAA: Yes, Your Honor.

16 THE COURT: All right. So in paragraph two of
17 that order.

18 MR. PEREZ: Your Honor, that's a different
19 response. That's the response to the objection of claims,
20 which we agreed to push beyond the motion to compel.

21 THE COURT: Oh. Okay, there was a blank in there.
22 What date would you like in there?

23 MR. PEREZ: The 28th, the week after this.

24 THE COURT: The 28th.

25 MR. PEREZ: Again, the week after.

1 THE COURT: My apologies for that, so.

2 (Pause in the proceedings.)

3 THE COURT: All right.

4 (Pause in the proceedings.)

5 THE COURT: It won't look very pretty just because
6 the formatting had changed, but it's all in there. That has
7 been signed and it's on its way to docketing.

8 Mr. Pereydaa, thank you, sir. You're free to go,
9 if you wish.

10 MR. PEREYDAA: Thank you, Your Honor.

11 MR. PEREZ: And finally, Your Honor, the last one
12 is the Celsius motion for administrative expense. I don't
13 see Mr. Koenig on the line. I don't know who's here. Oh,
14 there he is. I see him now.

15 THE COURT: There he is. Always lurking in the
16 shadows.

17 MR. PEREZ: So, Your Honor, I think we'd like to
18 basically -- we're abating all of this pending mediation.
19 We're still in -- and they've reported to Judge Glenn last
20 Thursday.

21 THE COURT: Okay.

22 MR. PEREZ: So we've -- and we're reporting to
23 you.

24 We're still in search of a mediator. But that'll
25 eventually come to you; otherwise, we'll be back in court.

1 But this is just -- we're presenting this.

2 THE COURT: Fair enough. And I see Mr. Koenig
3 nodding and there I think he just popped up.

4 MR. KOENIG: Good afternoon, Your Honor, Chris
5 Koenig for Celsius.

6 THE COURT: Yes. Thank you.

7 MR. KOENIG: We agree -- I'm sorry, Your Honor.

8 THE COURT: No, my fault. Go ahead, please.

9 MR. KOENIG: I was just going to agree. We're
10 looking forward to mediation. We're still working through
11 some of the mechanics and putting the identity of the
12 mediator, but we hope to engage in mediation in the near
13 term.

14 THE COURT: All right. Then let's do this. We'll
15 just note that the matter has been abated. Either party can
16 get it back on the calendar by contacting Mr. Alonzo.

17 Does that work for everybody?

18 MR. PEREZ: Works for us, Your Honor.

19 THE COURT: All right, Mr. Koenig?

20 MR. KOENIG: Yes. Thank you, Your Honor.

21 THE COURT: All right, thank you, sir.

22 MR. PEREZ: And Your Honor, with that I'll turn it
23 over to Mr. Berkovich.

24 THE COURT: All right, thank you.

25 Ms. Berkovich, good afternoon.

1 MS. BERKOVICH: Good afternoon, Your Honor. Roni
2 Berkovich, Weil Gotshal & Manges for the Debtors.

3 The only item going forward today is the Debtors'
4 exclusivity motion at Docket 773. For this contested
5 matter, we filed the Declaration of Michael Brows at Docket
6 919. He is available virtually for questioning.

7 We'd like to move for the admission of the Brows
8 Declaration at Docket 924-1 filed with the Witness and
9 Exhibit List.

10 THE COURT: Got it. Let me do -- and we'll come
11 back to that.

12 So, I really didn't understand where everybody was
13 in this. No one's, you know, -- no one wants to give you
14 any additional time, but no one's got an alternative either.
15 And I'm just -- has that discussion occurred? Has there
16 been -- I don't really understand what we're going today.

17 MS. BERKOVICH: Yes, Your Honor, to clarify,
18 everyone is willing to give us additional time except for a
19 handful of the equipment lenders.

20 THE COURT: Right.

21 MS. BERKOVICH: They're all -- everyone -- no one
22 likes Chapter 11, not the creditors, not the Debtor. No one
23 likes to be here and everyone would like to move quickly.

24 But we've made a lot of progress --

25 THE COURT: Right.

1 MS. BERKOVICH: -- even since the filing of the
2 exclusivity motion. So the Debtors have presented now a
3 business plan to the advisors of each of their five
4 constituents and are in the process of answering diligence
5 questions and meeting with them further about the business
6 plan.

7 The next step will be to present it to the
8 constituents themselves. You know, we have five groups.
9 The DIP Lender, the Official Creditors Committee, the
10 Official Equity Committee, the Ad Hoc Group, and the DIP
11 Lender, who's also the large unsecured creditor, as well as,
12 of course, the equipment lenders.

13 The equipment lenders have been included in all
14 that and then the step after that, which we intend to
15 commence in the next week or so, would be discussions on a
16 Chapter 11 Plan.

17 But Your Honor is correct that nothing in the
18 objections that were filed suggested that anyone had a
19 better alternative or something different. I think they
20 just would like it to move faster.

21 THE COURT: All right. Let me ask is there -- is
22 there anybody -- is there anybody on the line for any of the
23 objecting parties that would like to give me what I'll just
24 take as -- and Mr. Roach, you don't need to raise your hand.

25 If you hit five star for me so that I can hear

1 you. And you only had to do it once. I just don't -- there
2 you go.

3 Mr. Roach?

4 MR. ROACH: Yes, Your Honor. Thank you.

5 Certainly while we didn't put in our objection
6 specific next steps, if you will, I think Ms. Berkovich is
7 correct that this is a very unique case that has severe
8 impact on our clients, that is the equipment lenders and
9 others that have joined, you know, filed joinders to our
10 leading objection.

11 And what we're looking to impress upon the Court
12 is that at the opening hearing, First Day Hearing, you know,
13 this was represented as a six-month case. It was moved
14 quickly.

15 The Court indicated it could move even more
16 quickly if necessary. And we seem to be bogged down here
17 recently where there's been delays in providing business
18 plan, the business plan can't be shared with our clients who
19 are the experts in this arena -- not necessarily the lawyers
20 or other advisors, but our clients have hired.

21 And so, there needs to be focus on moving more
22 quickly, staying the course and frankly, getting a little
23 bit more accomplished in less time.

24 THE COURT: So I hear that. I'm not sure that
25 that helps me in my inquiry.

1 So let's assume for a second that your objection
2 carries the day.

3 MR. ROACH: Yes, Your Honor.

4 THE COURT: What's next?

5 MR. ROACH: Well, I mean the Debtor is still free
6 to propose its Plan -- certainly nothing in removing
7 exclusivity or allowing exclusivity to expire.

8 Prejudice is to the Debtor in filing its Plan, or
9 if another party comes in and files a Plan and the Debtor
10 and the stakeholders will have to deal with that.

11 But what we think may occur in that situation is
12 that the Debtors will be focused and forced to focus on
13 getting a Plan on file and moving this case to conclusion,
14 which we just haven't seen so far.

15 THE COURT: And so, okay. That just seems like to
16 me to be the worst possible way to get what you want. But
17 okay.

18 Anyone else want to make what I'll just take as an
19 opening statement?

20 (No audible response.)

21 THE COURT: All right, then Ms. Berkovich --

22 MR. HANSEN: Yes, Your Honor.

23 THE COURT: Oh, Mr. Hansen. I'm sorry.

24 MR. HANSEN: Yes, Your Honor, Kris Hansen with
25 Paul Hastings, on behalf of the Ad Hoc Committee.

1 Your Honor, I feel like I can't let a hearing go
2 by without making a few remarks, so I know Ms. Berkovich
3 appreciates that.

4 So, Your Honor, I did just think -- from our
5 perspective, it has been a frustrating process. Right, we
6 filed our reservation of rights so to speak or statements or
7 however you want to phrase it.

8 We are (indiscernible) accordingly supporting the
9 extensions. I think the frustration that many of the
10 creditors in the case share is that back when the case
11 altered course, we were promised a business plan in a matter
12 of weeks. It's been a matter of months. We just got it.

13 So we're working through it. We're doing the work
14 that's necessary to be done and we recognize sometimes these
15 cases take longer than others. But I think that frustration
16 that literally everyone shares is: Where are we and where
17 are we going?

18 And people generally view the business as not as
19 complex as it might be made out to be. And so we're working
20 through the business plan. We see the timeline that the
21 Debtors' provided in connection their demonstratives that --
22 we'll see if that can be held.

23 Nobody has a Plan of Reorganization at this point.
24 We're still at the business plan phase. There has not been
25 a draft PRR circulated. And so obviously that's a pretty

1 specific timeline when we're looking at Memorial Day weekend
2 to a filing in three weeks. And hopefully there will be
3 consensus around that.

4 Like, you know, no one can tell you whether
5 there's consensus around a business plan yet, so we'll be
6 diligent.

7 So I think the heads up that we wanted to give the
8 Court today was more than, again while we welcomed to the
9 Court the extension and we want to see the cases move
10 quickly. What we don't want to see the cases turn into --
11 and I'm sure no one here does -- is to evolve into
12 litigation. That's time consuming and expensive.

13 And so we want to work together and try to get
14 through this process. Things haven't changed in awhile in
15 terms of the PTC market and in terms of power market. But
16 we want to get going and we appreciate the Debtors saying
17 that, you know, now is the time to move. But I think the
18 frustration is that (indiscernible) creditors and other
19 constituents, is that that matter at least turned into a
20 matter of months and everybody was -- for lack of better way
21 of describing -- pulling their hair out.

22 THE COURT: Got it. Is there anything that I can
23 do to help keep everybody focused from your viewpoint? Such
24 as, you know, I can do a weekly status conference and --
25 you-all know when things get on my radar and stay on my

1 radar, things typically tend to move.

2 And I'm happy to do that. I just didn't see the
3 need because I know all of the professionals involved. And
4 I, you know, I was leaving that to you-all to do what you
5 know how to do so well.

6 But I'm perfectly happy to get back involved in
7 terms of oversight on a weekly basis, a bi-weekly basis,
8 whatever you think would keep everybody focused.

9 MR. ROACH: Your Honor, obviously Ms. Berkovich
10 can speak on behalf of the Debtors. As a matter of
11 perspective I don't think it's necessary for us to be in
12 front of you on a weekly status conference. I think they're
13 telling us to move this process now with the Plan of
14 Reorganization and we all know how to get in touch with you
15 to the extent that it is a (glitch in the audio) set the
16 date. I think that nobody has come running to the Court is
17 because it was a little bit of like, you know, I just got
18 back from a trip to Italy with my wife and a little bit of
19 (glitch in the audio). I thought it was the next day
20 (glitch in the audio).

21 So I think that Ms. Berkovich can speak on behalf
22 of the Debtors, obviously I can speak to mine, but I think a
23 weekly status conference would probably too much at this
24 point and we should let the parties try to work this out and
25 if we can't, I think we all know how to come back in front

1 of you quickly.

2 THE COURT: All right. Thank you.

3 Anyone else? Mr. Bean, had you hit five star?

4 (No audible response.)

5 THE COURT: You only had to do it once. I think I
6 hear you moving around.

7 Could you just say something?

8 MR. BEAN: Yes, Your Honor.

9 THE COURT: You're loud and clear. Thank you,
10 sir.

11 MR. BEAN: Thank you very much. My name is Thomas
12 Bean. I represent MassMutual Asset Finance, an equipment
13 lender to join (indiscernible)'s objection.

14 I wanted to throw out one idea because I
15 understand the Court is looking for ideas in terms of what
16 might address some of the equipment lenders' concerns.

17 We are being asked -- we are dealing with a very
18 volatile immature market in the crypto-currency industry.
19 And we're very fortunate that the price of Bitcoin has gone
20 up according to the Debtor about 66 percent during the life
21 of the case.

22 The risk is that over the coming months the hash
23 price could decline from where it is today, thus making the
24 equipment lenders bear the risk of a potential decline in
25 the market value in the coming months with absolutely no

1 premium in the form of cash payments that the Debtor has
2 declined and they can make payments or otherwise for that
3 risk. So we think we're being prejudiced.

4 And I want to throw out this one idea. It may be
5 premature, but I wanted to get it before the Court. At or
6 about the time of Plan Confirmation, absent agreement
7 between the Debtor and equipment lenders as to the value of
8 the collateral, the Court will be required to value that
9 collateral.

10 And as the Court is well aware, under the Fifth
11 Circuit's decision in the *Matter of Houston Regional Sports*
12 *Network*, this Court in determining the date for valuing
13 MassMutual and other credit commitment lenders' collateral
14 for Plan Confirmation purposes, may take into account the
15 development of proceedings, so long as it also takes into
16 account the proposed use or disposition of the collateral.

17 Here, development of the proceedings may include
18 the Debtors' decision not to make payments to MassMutual,
19 while exhausting some of MassMutual's collateral and useful
20 life and exposing, if the Court grants the Debtors'
21 request for an extension of exclusivity, exposing those
22 equipment lenders to a risk of downturn in the
23 cryptocurrency market.

24 So the idea is like a float, is that if the Court
25 is inclined to grant exclusivity, grant the motion, it also

1 decides to exercise its discretion to value the equipment
2 lenders' collateral as of the date the equipment lender's
3 request, or even if it doesn't do that today, say, that's
4 something the Court is going to consider down the road.
5 Equipment lenders have been supporting this case. The big
6 part of the Debtors' over performance over budget is based
7 on using our equipment, which they're using without making
8 any payments. You know, we don't want to also bear the risk
9 of decline in the market while this case plays out over the
10 coming months.

11 So the idea to float is that the Court would
12 decide -- would agree to value the collateral as of the date
13 the equipment lenders request.

14 THE COURT: All right. Anyone else?

15 (Pause in the proceedings.)

16 THE COURT: Yes, sir.

17 MR. MURPHY: This is Frasher Murphy.

18 THE COURT: Oh, I'm -- absolutely, Mr. Murphy. I
19 was looking at the gentleman who was coming to the lectern.
20 But go ahead, go ahead.

21 MR. MURPHY: No problem, Your Honor. It actually
22 took a minute for my camera to come on anyway.

23 Yes, Your Honor. Frasher Murphy with Haynes and
24 Boone. I represent Block by Lending. We filed a joinder to
25 Wing Spire's (phonetic) objection and we joined in their

1 arguments that were advanced today, but there was one issue
2 that I did hear the Court ask for, suggestions or commentary
3 on anything that could be helpful in moving this process
4 forward.

5 I think one of the things that's been holding this
6 case back somewhat from an equipment lender's standpoint is
7 that -- and I believe Mr. Roach touched on this -- all the
8 materials that the Debtors have provided, including their
9 business plan, has been provided under a "Professional Eyes
10 Only" designation. And likewise, Block By, is subject to a
11 non-disclosure agreement with the Debtor that was signed up
12 back in December of 2022 in connection with some
13 pre-petition restructuring transactions or in discussions.

14 So all of the information that's in the business
15 plan that's been provided on a PEO basis are things that
16 already subject to an NDA and could easily be shared with
17 our client.

18 We have made the request to the Debtors that they
19 drop the PEO designation and that request has been denied.
20 We've not been persuaded by the Debtors that there's good
21 business justification for keeping the PEO designation in
22 place.

23 And obviously I had experience over the last year
24 in the crypto case from the legal perspective and the
25 lawyer's perspective, so another business person and that is

1 hamstringing me and my ability have meaningful discussions
2 with my client and obtain meaningful feedback from my client
3 that I could share with the Debtors and their counsel that
4 could maybe help move this case forward.

5 So in response to Your Honor's question, I think
6 that would be extremely helpful if we could open up the
7 process a little bit more, be able to share some information
8 with our clients particularly since we're under an NDA and
9 see where it goes from there.

10 THE COURT: Terrific. That's helpful. Thank you.

11 Yes, sir.

12 MR. GOREN: Thank you, Your Honor. Todd Goren,
13 Willkie, Farr & Gallagher on behalf of the Official
14 Creditors Committee.

15 As Your Honor probably saw, we filed a statement
16 in support of the proposed exclusivity extension. I mean,
17 like everybody else, we're very anxious to get the case
18 moving, but from our perspective the way we looked at it and
19 I think really helped our question over the case law is will
20 terminating exclusivity help advance the case and I think
21 you hit on it, no, it's not going to help advance the case.

22 You know, there's a lot of work that's still to be
23 done. The Debtors have presented a business plan to
24 advisors. The Committee itself still hasn't seen it. As
25 Mr. Murphy just noted I think that's universal across

1 everyone whose advisors that have seen it. I'm sure
2 Ms. Berkovich will get into it. There's a reason for that.

3 Our understanding at least is that they want the
4 advisors to see it, they wanted to gather feedback from the
5 advisors. It's a collaborative process and then once
6 they've gathered feedback from advisors, they'll present a
7 business plan to all of the constituents.

8 So while we're anxious to get things done, that
9 process made sense to us, so we're going along with that
10 process.

11 THE COURT: All right.

12 MR. GOREN: There's still significant issues that
13 need to be resolved. Valuation is going to be a huge
14 question in this case. There's also the question of the
15 200 percent premium that the lenders have asserted
16 entitlement to. Those issues are going to require some
17 significant negotiation. I'm hopeful we'll be able to find
18 common ground on that stuff and that the creditors and
19 equity will be able to find a Plan that is acceptable to
20 everybody.

21 Fortunately, the business is performing well. You
22 know, the Debtors, I believe, are going to run through a
23 little presentation for you and as you'll see in a moment,
24 you know, this isn't a -- it's not a melting ice cube.
25 We're not generating more debt during the case, the Debtors

1 paid down the DIP this month.

2 So things at the moment are going well. Obviously
3 things can change, but at the moment things are going well
4 and we need the time afforded by this exclusivity extension
5 to see how far we can get.

6 If we can advance the case and even if we can't
7 get to a Plan, because really the 90-day extension is only
8 60 days from now. It's July 19th, I believe, is the date.

9 There's a lot that needs to get done between now
10 and then, so hopefully we'll be able to get a Plan done, or
11 if not, it'll just need significant progress on the Plan.
12 If we don't, we might take a different position, you know,
13 at that point, but for now, we believe that terminating
14 exclusivity would be a disaster and that the best course of
15 action is for the parties to try to get together and try to
16 advance the ball.

17 THE COURT: Right. All right. Thank you.

18 MR. GOREN: Thank you, Your Honor.

19 THE COURT: Mr. Meyer? Good afternoon.

20 MR. MEYER: Good afternoon, Your Honor. David
21 Meyer of Vinson & Elkins on behalf of the Equity Committee.
22 I didn't want to lose my opportunity to present to you, as
23 well, today.

24 I'm joined, Your Honor, by my colleagues, Paul
25 Heath and Karen (indiscernible) from Vinson & Elkins, as

1 well as David Rush and Ann Atarie (phonetic) from FTI.

2 Your Honor, a couple of quick points. Since V&E
3 and FTI were selected by the Equity Committee in April,
4 we've been working quickly to get up-to-speed, and Your
5 Honor, I think the point that I expect will be important to
6 you and I can represent to you is that the process is
7 working the way that it should.

8 The company is engaged fully with us. We've been
9 working hard and taking note of your prior remarks about
10 avoiding snippy comments and we've followed your direction
11 on that front and are working to pursue a consensual path.
12 We'd love for that to occur in the next budget basis. But
13 from my perspective, the company's advisors are feeding
14 information to the other advisors to diligence.

15 I expect, as Ms. Berkovich will lay out for you,
16 clients will get restricted thereafter like you'd expect the
17 process to work.

18 THE COURT: Right.

19 MR. MEYER: And to see if we can come together
20 consensually over the upcoming weeks on a path forward.

21 Thank you, Your Honor.

22 THE COURT: Mr. Meyers, thank you.

23 Anyone else?

24 (No audible response.)

25 THE COURT: All right. Ms. Berkovich, I

1 interrupted you mid-flow. Can we start over on the offer?

2 MS. BERKOVICH: Your Honor --

3 THE COURT: On the evidentiary offer.

4 MS. BERKOVICH: Sure, Your Honor. We'd like to
5 move into evidence the admission of the Brows Declaration at
6 Docket 924-1 filed with the Witness and Exhibit List.

7 THE COURT: All right. Thank you. Thank you.

8 Anybody have an objection for purposes of today's
9 hearing only the Declaration of Mr. Brow that is found at
10 924-1?

11 (No audible response.)

12 THE COURT: All right. It's admitted.

13 (Exhibit 924-1 received in evidence.)

14 THE COURT: Anyone wish to cross-examine Mr. Brow?

15 (No audible response.)

16 THE COURT: All right. Then thank you.
17 Mr. Brow's testimony is accepted. He's excused as a
18 witness.

19 MS. BERKOVICH: Thank you, Your Honor.

20 We've prepared a presentation on the business that
21 we thought would be helpful to provide in connection with
22 exclusivity. While some of these comments from the opening
23 statements are fresh on Your Honor's mind, perhaps I should
24 address those first?

25 THE COURT: Totally up to you.

1 MS. BERKOVICH: Sure. I'll do that. Really,
2 there's two I'd like to address.

3 First of all, I'll start with Mr. Murphy's point
4 about us not providing the business plan to the equipment
5 lenders themselves. First, his particular client does have
6 a financial advisor, BRG, that's been invited to call us and
7 like other lenders have had financial advisors that are very
8 involved in the diligence process.

9 We could theoretically give the existing version
10 of the business plan to the equipment lenders themselves, we
11 could and we will if Your Honor thinks that could be
12 helpful, but the reason we have not is not because we're
13 trying to slow play anything. It's because we think that
14 would be efficient -- inefficient, excuse me.

15 We're trying to get feedback from each of our five
16 major constituents onto the business plan -- into the
17 business plan after they do their diligence and there might
18 be some changes to the business plan. So we think it's more
19 helpful if the constituents themselves review a further
20 along business plan than the one we have now.

21 That's our thinking on it.

22 THE COURT: All right.

23 MS. BERKOVICH: Secondly on Mr. Bean's suggestion
24 about the timing for the valuation of collateral, we have
25 weekly calls with equipment lenders. We're open to

1 discussing any of these ideas. I think it's -- I don't
2 think now is the right time to make a decision on when the
3 collateral should be valued. We should each consider it and
4 discuss it. Maybe we can come up -- the parties come up
5 with a consensual resolution on that question. It's really
6 not relevant exclusivity either and I don't see how it moves
7 this particular contested matter forward.

8 THE COURT: All right. All right.

9 And you had a presentation?

10 MS. BERKOVICH: Yes, Your Honor.

11 THE COURT: And who is going to run that?

12 MS. BERKOVICH: Mr. Crabtree will be running it at
13 Docket 923.

14 THE COURT: All right. And what is Mr. Crabtree's
15 first name?

16 MS. BERKOVICH: Austin.

17 THE COURT: Austin, all right.

18 (Pause in the proceedings.)

19 THE COURT: Mr. Crabtree, you now have control.

20 MS. BERKOVICH: We'll start with the roadmap of
21 Slide 2.

22 MALE SPEAKER: He must be related to Mr. Carlson.

23 (Laughter)

24 THE COURT: Here you go.

25 MS. BERKOVICH: We'll invest in more computer

1 training in our Houston office.

2 THE COURT: No, he's got it. He's going to get
3 there in just a minute.

4 (Pause in the proceedings.)

5 MS. BERKOVICH: I can get started. I mean, the
6 main purpose of the first part of the presentation is to
7 provide the Court and other parties-in-interest with a more
8 in-depth discussion about the Debtors' business, the factors
9 that impact the business and profitability, sort of beyond
10 what we did five months ago at the First Day Hearing.

11 If that will help set the backdrop for the changes
12 that have happened in the last five months and why it's
13 taken a while to get to the business plan, but where we're
14 going.

15 All right. Let's jump to Slide 5.

16 So the Debtor is in the business of mining and so
17 a little background in what mining is, mining is the process
18 in which transactions involving cryptocurrency. It
19 transfers Bitcoin between two individuals are verified and
20 added to the block chain public ledger.

21 One mine, by solving a computational encryption
22 puzzle and one does that using a miner and a miner is really
23 a specialized computer that's specifically designed to solve
24 these particular mathematical algorithms. And by doing so,
25 validates the process.

1 Here in the middle of this Slide 5, you have an
2 illustration of the way it works, so transactions involving
3 cryptocurrency are pooled together in a block and encrypted
4 by a complex puzzle. Once the block is formed, all the
5 miners around the world compete to solve the puzzle. And
6 once that puzzle is solved, the transactions are verified by
7 the network.

8 The new block of verified transactions is attached
9 to the chain of prior block and sending block chains. And
10 for solving this puzzle, the miners are rewarded with
11 cryptocurrency. And that's the way that Bitcoin is actually
12 created, simply by these computers solving these puzzles.

13 Next slide, please.

14 Okay. So this illustration depicts how the
15 Debtors machine works in the whole process. So in the
16 middle you have cores data centers and cores miner. The
17 miner core runs data centers in numerous dates and has tens
18 of thousands of miners of its own, as well as listing other
19 people's miners.

20 So the key to powering the computer is
21 electricity. So electricity is a huge cost for the Debtor
22 and that was one of the high costs of electricity in 2022 is
23 one of the reasons leading to the Debtors financial issues.

24 So core takes these computers and uses something
25 called hashing. Hashing power is the power of the computer

1 to solve these particular algorithms to make puzzles and
2 uses that to compete with other computers to solve the
3 problem -- solve these problems. And as a result, it get
4 Bitcoin rewarded.

5 Bitcoins are rewarded for set amounts released by
6 the network for each block and that's 6.25 Bitcoins per
7 block currently and sometimes the network also pays
8 transaction fees for solving the problem. So electricity is
9 the input. Power is the output. And from that you get the
10 rewards, which are the Debtors' revenue, which is Bitcoin.

11 Next slide.

12 So the key in Debtors' profitability are the
13 inputs on this page. First, you have Bitcoin price. That's
14 pretty obviously because the Debtor sells all the Bitcoin it
15 mines. The higher the Bitcoin price, the more the Debtors
16 profitability increases.

17 Second, you have something more complex that's
18 unique to crypto mining, which is hash rate. Hash rate is
19 the -- talk about the network hash rate, that is the overall
20 computing power of all the Bitcoin miners in the world.
21 Together that's hash rate.

22 So how much power are these computers around the
23 world putting into solving these problems? Hash rate, when
24 it goes up, it's not good for any particular miner because
25 their hash rate, their hashing power becomes a smaller

1 percentage of the overall computer power going for a limited
2 amount of Bitcoin.

3 Terahash rate is its computing power. Hash price
4 is really the key to it all. Hash price is a single metric
5 that applies to everybody at the same time. It tells you
6 exactly how much Bitcoin you will get for each terahash per
7 second of computing power.

8 So currently hash price is eight cents per
9 terahash. Everyone who mines Bitcoin will be eight cents
10 per each terahash of power that its miner will support,
11 terahash per second.

12 And hash price takes into effect a combination of
13 (indiscernible) input, most notably the network cash rate,
14 you know, the number of people that are going after the same
15 Bitcoin. The Bitcoin price and the reward and transaction
16 fees that are paid, so you want a higher hash price.

17 And of course, electricity costs impact the
18 Debtor, as well, as I explained.

19 Next slide.

20 This is just another depiction of how these
21 different variables impact the Debtors' business. As the
22 network cash rate goes up, that hurts the Debtors
23 profitability, but as its own hash rate goes up -- for
24 example, if it acquires additional miners, then its
25 profitability increases and of course, BTC price and rewards

1 and transaction fees are both positively correlated to
2 profitability.

3 We didn't put hash price on here. We could have.
4 Again, hash price is a combination of the network hash rate
5 the BTC price and the reward and transaction fees, working
6 sometimes in different directions to get you to the actual
7 input that you -- the actual amount of revenue that you get
8 for each unit of computer power.

9 And then, of course, costs, as the costs go up,
10 then profitability decreases.

11 Now turning to -- that's just a lot about the
12 business. In this section we'll get to how those factors
13 have lately impacted the Debtors' business.

14 So the first few months of the Chapter 11 case
15 were spent, of course, transitioning into Chapter 11,
16 obtaining replacement DIP financing on more favorable term,
17 and dealing with issues like the Equity Committee, but the
18 Debtors soon thereafter turn their attention to revising
19 their go-forward business plan.

20 And a revised business plan was necessary due to
21 several market conditions that have shifted materially since
22 the petition date. We have increased Bitcoin prices,
23 increased network cash rate, and decreasing power costs.

24 Overall, as I'll show in the next slide, these
25 have been very positive for the Debtors. And have caused

1 the Debtors' financial position and liquidity to improve
2 since the petition date.

3 So these factors take into account the input the
4 Debtor must utilize to determine their business plan,
5 including what capacity for their facilities should they be
6 using? The long-term Plan for each of their facilities, how
7 many facilities, what's the size of those facilities, where
8 are they located and the allocation of their resources in
9 their facilities between self-mining and hosting.

10 I think Slide 11 is the most interesting and
11 helpful slide in the entire deck, and this shows you what's
12 happened since the petition date. So you know, we tend to
13 talk about the most since they're the most obvious is the
14 increase in Bitcoin price, which has gone up 61 percent
15 since the petition date and the decrease in power costs.

16 Here in the bottom right, we show just one type of
17 power costs. These are the ERCOT North power price
18 forwards. As Your Honor knows, a little bit difference in
19 each region, but I think these are fairly representative of
20 what we've seen overall.

21 The power costs have gone down 24 percent since
22 the petition date. These two things together have been
23 very, very positive for the Debtor.

24 Working in the other direction is what you have in
25 the top right-hand corner, which is network cash rate and

1 the network cash rate has gone up 54 percent since the
2 petition date. Now why has it gone up? Well, the Bitcoin
3 prices have gone up, Bitcoin mining become more profitable.
4 You have more miners competing to solve the theme algorithm,
5 which impacts the Debtor and impacts every miner.

6 However, if you combine all of those -- not
7 prioritize, but if you combine Bitcoin prices and network
8 cash rates, you get hash price. Again, what are we getting
9 for each unit of power that we're putting into the system?
10 And you'll see the hash price has gone up 30 percent since
11 the petition date.

12 Now, you know, so Bitcoin has gone up 61 percent,
13 hash price has gone up 30 percent, so still a market
14 improvement. That taken together with the power price
15 decreases have really positively impacted the Debtors.

16 And if Your Honor has any questions, obviously
17 free free to stop me, but I'll keep going on the slide.

18 THE COURT: No, keep going.

19 MS. BERKOVICH: And so this slide gives a good
20 illustration of how those combination of factors have
21 positively impacted the Debtors. So despite increasing the
22 length of our case by -- Chapter 11 case by four months, our
23 liquidity -- ending liquidity now is projected to be
24 \$46 million higher than what we project at the very
25 beginning of the case. And that end results in materially

1 lower use of Bitcoin.

2 And liquidity was so high that as required by the
3 DIP, that's required as to pay down if we had excess cash of
4 \$50 million, we recently gave back six million of the DIP.
5 So, you know, and having looked behind the numbers to see
6 what's really causing it, it really is -- the out
7 performance really is primarily belated to the -- both
8 realized the projected increase in receipts from self-mining
9 and the hash price going up, and the decrease in power
10 disbursements.

11 We've discussed a little bit of this already, but
12 really the status is that we are exactly where we should be
13 now that we have the first iteration of our business plan
14 done. We're doing exactly as one would expect at this
15 status in the case with all of the constituents and I think
16 you've heard that from everybody today.

17 Even the objectors sort of admitted that now that
18 we are where we are, these are the right next steps. So we
19 have five different constituents and we've had separate
20 sessions with each of them with key senior management
21 present, presenting the business plan and answering
22 questions with the advisors to each of these groups.

23 And right now, we're getting diligence questions
24 from them. I've been called, we're doing what we can to try
25 to get as many people onboard for the business plan prior to

1 sharing it with the constituents, and then getting into Plan
2 negotiations.

3 Of course, the next step is negotiations over the
4 terms of the Plan. We've been thinking about the Plan of
5 Reorganization, of course, it's very important to us. But
6 we'd like to build as much consensus as possible. We have a
7 complex capital structure, different types of secured
8 lenders on different assets. We have Equity Committee in
9 the mix here. We'd like to build as much consensus as
10 possible.

11 We'll get a Plan on file in the near term, even if
12 you don't have consensus, but we would continue -- we will
13 continue to work with each of the major parties to try to
14 build their support from the Plan, even if we start the
15 train running.

16 We are targeting emergence from Chapter 11 by the
17 end of the September. It's helpful to have goals. That's
18 our goal. We'd like to inform the Court and everybody that
19 our Special Committee of independent directors is overseeing
20 the Plan formulation and negotiation process and they're
21 very involved.

22 The next page that Mr. Hansen previewed, it's
23 illustrative, a Plan confirmation time line. If we get a
24 Plan on file by June 15th, we calculate that we will be able
25 to emerge from Chapter 11 by September 25th.

1 As Your Honor knows, as everybody who does this
2 all the time knows, these dates are subject to change.
3 They're making these shorter or longer, depending on the
4 amount of consensus that we need, depending on the Court's
5 calendar, and depending on other factors. Again, it's
6 merely illustrative.

7 Okay. So the other major item that we've been
8 working on -- and you saw some of this on the Docket of
9 things that got adjourned and you'll see others coming as a
10 claims process. We were very diligent in reviewing our
11 claims quickly, objecting to large claims, trying to get a
12 very good handle in our claims pool, that will make the
13 confirmation process smoother, it will also enable us to
14 make distributions to our stakeholders more quickly once we
15 emerge from bankruptcy.

16 Now turning more specifically to the request for
17 the extension of exclusivity, this is at Docket 773. We're
18 seeking to extend our exclusive filing period through and
19 including July 18th, 2023. As somebody noted, that's two
20 months from now and the exclusive solicitation period
21 through and including September 17th, each of these is an
22 extension of 90 days. This extension was requested to
23 enable us to finalize our business plan.

24 Your Honor, I think our papers very well lay out
25 the factors that courts examine in connection with requests

1 for exclusivity and how we satisfy those. I propose to give
2 a 62nd summary of our position, rather than going through
3 all of the factors, unless Your Honor would like along and
4 detailed --

5 THE COURT: So can I get to the business plan for
6 a second?

7 MS. BERKOVICH: Yes.

8 THE COURT: Just part of what is so fascinating
9 about this for me is I don't understand where all the curves
10 cross. And that's a generic statement, but you know, now,
11 past couple of months, power is as cheap as it gets during
12 the year and over the next couple of months, it's going to
13 rise. I mean, just historically spot prices in the summer,
14 they tend to go up.

15 I have always wondered how the events really
16 correlate to the price. You know, because theoretically
17 every time you have an event, price at least logically to me
18 seems it has to double in order to stay in the same sort of
19 -- in the same profitability realm as you were prior to the
20 event.

21 Does the business plan deal with all of this and
22 has somebody got all these curves and at some point is
23 somebody going to educate me? Because I would just love to
24 see how all this fits together. I mean, I know there are
25 people out there that are way smarter than me that are

1 dealing with this.

2 But I would just -- at some point I would love to
3 understand how all this works.

4 MS. BERKOVICH: The answer to your questions are
5 yes, yes, and yes.

6 THE COURT: Okay.

7 MS. BERKOVICH: We do have people -- those are
8 factored into the business plan. We do have people that can
9 explain that very well.

10 This one -- to confirm, when you talk about
11 events, are you talking about the halving events?

12 THE COURT: Yes.

13 MS. BERKOVICH: Okay. I mean, I can tell you --

14 THE COURT: I'm just trying to tell you some
15 things that I find interesting that at some point I'm hoping
16 people answer those questions for me.

17 MS. BERKOVICH: And those are --

18 THE COURT: I wouldn't try to put you on the spot.

19 MS. BERKOVICH: -- those are very good questions
20 and questions that the company has to take into account in
21 formulating its business plan. How do you take halving an
22 event into account and how do you develop a business plan
23 around that? And I can assure you that a lot of thought has
24 been put into that and I can say just very short if the
25 halving event happens and now the Bitcoin received per block

1 was down by half, right? What happens then is the network
2 hash rate goes down a lot as well for the same reason that
3 it went up when the Bitcoin price went up, right? Because
4 it's less profitable at the very outset.

5 THE COURT: So people get out of the market?

6 MS. BERKOVICH: People get out of the market.

7 THE COURT: Got it.

8 MS. BERKOVICH: And so those things tend to --

9 THE COURT: But at some point, don't you have to
10 cross your fixed cost line? I mean, price of electricity
11 isn't going to keep going down proportionately, right?

12 MS. BERKOVICH: Electricity is a different input
13 than you use the forward curves to predict what the
14 electricity will be.

15 THE COURT: Right.

16 MS. BERKOVICH: But I can say even though numerous
17 halving events have occurred over the last year, generally
18 speaking, other than recent events of the last year, Bitcoin
19 prices have continued to go up.

20 But we understand it's our job to educate the
21 Court about these factors and to support the business plan
22 that we present in connection with our Chapter 11 Plan and
23 we will present evidence that hopefully explains all of that
24 and answer all of the Court's questions.

25 THE COURT: But can we go back to your tentative

1 schedule? And I get that this is just something that you're
2 targeting.

3 There we go. So -- and again, I'm not trying to
4 put my finger on the scale at all, but it would seem to me
5 that it could help the process if you really do file a Plan
6 and Disclosure Statement on June the 15th and given all of
7 the work that you are doing on the front end, I don't why
8 you wouldn't take advantage of perhaps just seeking
9 conditional approval of the Disclosure Statement and at
10 least trimming that time off and to the extent that there
11 are Plan negotiations even after you file your Plan that are
12 going to have to occur, it would seem to me that would be a
13 better use of that time.

14 And could actually perhaps trim this -- and not
15 that I'm criticizing the September exit date, but it seems
16 to me that you could trim that down by at least a month.
17 But again, I'm just -- I don't have -- I don't have any
18 issues at all with what you've proposed, I just think that
19 to the extent that people are wanting it to go faster,
20 sooner, have it done yesterday-type of approach, that you
21 could certainly expedite the process if you thought it made
22 sense to do so and it's not going to bother me one bit.

23 MS. BERKOVICH: That's very helpful feedback, Your
24 Honor. We would love to shorten the process and we and the
25 objectors and all the other parties share a common goal of

1 time to make this process go as quickly as possible, so
2 knowing that Your Honor is open to conditional approval of
3 the Disclosure Statement would enable us to shorten the
4 deadline and we will consider that.

5 THE COURT: Good. And I would think, too, you
6 know, obviously you want to be communicating with the
7 US Trustee's Office, just in terms of, you know, where their
8 comfort level lies, as well as the Committee, but again,
9 given the time that you are spending with all of the major
10 constituents saying, look, here's what it's going to look
11 like, that's going to give me an awful lot of comfort.

12 MS. BERKOVICH: That's an excellent suggestion,
13 Your Honor.

14 THE COURT: All right. All right. I interrupted
15 you, my apologies.

16 MS. BERKOVICH: Okay. So back to the support for
17 exclusivity extension is the dramatic market changes that
18 we've noted in this industry since the petition date
19 required us to completely scrap our old business plan to
20 reflect -- or prepare a new one that reflected market
21 reality. And the business plan, of course, is a necessary
22 prerequisite for a Chapter 11 Plan, which will be fairer to
23 all stakeholders than the RSA plan we filed in December.

24 The business plan is complex, but the reasons I've
25 stated for the reasons that Your Honor has touched on, and

1 we've worked quickly to develop it, but we wanted to get it
2 right. The Debtors are pleased with the business plan we've
3 presented to our constituents and we hope that once they
4 complete their diligence, they will be satisfied, too, and
5 we can all turn to Plan negotiations.

6 You know, as I've said, the Debtors share our
7 creditors' goal of wanting to exit Chapter 11 as quickly as
8 possible. As much as the Debtors like, Mr. Schrock,
9 Mr. Perez and me personally, they want us out of their
10 lives, the sooner the better. They are eager to move on
11 with Plan negotiations, Plan confirmation, and emergence.

12 And I do also want to highlight that this is the
13 Debtors' first extension request and this is supported by
14 both Official Committees, the Ad Hoc Group, and the DIP
15 Lender, which again is also our largest pre-petition
16 unsecured creditor.

17 Your Honor, I can turn to the objections now,
18 unless you'd prefer for the objectors to first present?

19 THE COURT: Yeah, I'll give you a chance to come
20 back around and respond to it, but I don't see the need for
21 you to go through and anticipate what they're going to tell
22 me, given sort of how the hearing has gone.

23 So let's do that.

24 MS. BERKOVICH: Thank you, Your Honor.

25 THE COURT: All right. Let me ask: Is there any

1 of the objecting parties want to make argument, have a slide
2 deck of their own? Anyone?

3 MR. ROACH: Your Honor, this is Jared Roach with
4 Reed Smith.

5 THE COURT: Yes, sir.

6 MR. ROACH: We had sort of organized among
7 ourselves that I would kick it off and others may follow.
8 We do not have a slide deck, but I do have a few minutes of
9 argument.

10 THE COURT: Okay.

11 MR. ROACH: Your Honor, good afternoon again. For
12 the Record, Jarod Roach with Reed Smith on behalf of 36th
13 Street Capital, which is client secured in the miners, Prime
14 Alliance Bank, which is secured in the infrastructure
15 equipment, and Wing Spire Equipment Finance, which is
16 secured in both infrastructure equipment and miners.

17 Your Honor, our clients filed the objection, which
18 is at Docket No. 836 on May 1st, as part of an organized
19 effort by a number of the equipment lenders, many of whom
20 you've seen have filed joinders or supporting statements.

21 We didn't take filing this objection lightly. It
22 was very thoughtful and organized on the part of our
23 clients, but we thought it appropriate to tell our story and
24 given the Debtors' unique nature of this case, it's
25 important to put our thoughts out on the public record.

1 THE COURT: Yep.

2 MR. ROACH: The joining parties here are
3 MassMutual Asset Finance, Barings, Lockfly and North Mill.
4 I'll have our initial presentation and then, as I said,
5 others may join.

6 Your Honor, the objection is born from a few
7 ongoing issues: First, the Debtors are seeking more time
8 when the nature of the industry in which they operate
9 demands quick and decisive decision and action. They're
10 indicating here that not only do they need this exclusivity
11 extension, but further extensions may be forthcoming.

12 Second, the Debtors do not appear to have
13 determined their exit strategy. They appear content to
14 manage their assets as Debtors-in-Possession without any
15 sense of urgency. The exclusivity extension request is
16 evidence of this point as others have mentioned today that
17 if the motion is granted, the Debtors' Plan is due July 19th
18 or 58 days from today. Yet, the Debtors just circulated the
19 business plan to the equipment lender group on May 12th.

20 The equipment of business plan provides no insight
21 into the Plan structure or Plan treatment for our clients
22 and there's no definitive time for when the Plan will be
23 circulated. Indeed, we've seen for the first time a
24 proposed schedule, but as everyone has said today, that
25 proposed schedule is illustrative only and may slide as

1 other, you know, proposed deadlines, for instance, that the
2 business plan was going to be forthcoming shortly after the
3 April 10th filing of the motion to extend exclusivity.

4 And the third point, Your Honor, is that the
5 equipment lenders shared frustration that the Debtors can,
6 but are not interested in making payments to the equipment
7 lenders, despite the critical value provided to the estate.

8 The Debtors' financial picture is improving
9 materially. We believe they're using the equipment lenders'
10 collateral without making payments.

11 The Court and even the Debtors themselves have
12 recognized the urgency with which they should emerge from
13 bankruptcy. As I mentioned in the opening remarks at the
14 First Day Hearing, the Debtors advised the Court that they
15 were contemplating a six-month case, in other words, a case
16 in which the Plan would be filed within the original
17 exclusivity period.

18 In response, the Court acknowledged and indicated
19 that it would be happy to move at a fast pace.

20 The Debtors talk about the complexities and large
21 size of its business. These are facts that were known at
22 the time it advised the Court at the First Day Hearing that
23 this could be a six-month case. The Debtors say they need
24 time to address evolving business conditions in this
25 industry, but this is the nature of the crypto industry

1 right now. It is an immature industry that is always
2 evolving.

3 There's a fail to identify a challenge that was
4 not aware or could not have foreseen at the First Day
5 Hearing when it indicated a six-month stay in Chapter 11.

6 Your Honor, as these factors apply to a
7 (indiscernible), which of course are the governing factors
8 of 11, the Court should grant the request for an exclusivity
9 extension, we believe there are three of the factors cut
10 distinctly against granting the extension here.

11 First, the existence of good faith progress toward
12 reorganization. Your Honor, it's been repeated *ad nauseam*
13 here. I won't go into every detail, but we were just
14 provided the business plan on May 12th. The business plan
15 starts only after the proposed date of emergence from
16 Chapter 11. It's a bit like providing the ending to the
17 movie and then asking what we think of the ending to the
18 movie when we have no idea what's going on in the middle or
19 how we get to that point.

20 Whether the -- second, whether the Debtor has
21 demonstrated reasonable prospects for filing a viable Plan,
22 again, we're 30-plus days late on the business plan,
23 according to the timeline set forth in its own motion for
24 exclusivity extensions, and now we're looking just based
25 upon the schedule that was attached to Docket No. 923, a

1 proposed Plan that's filed within roughly three weeks of
2 today, and yet, we're not anywhere near to its final on a
3 business plan being allowed to share that with our clients,
4 as other objectors have raised, and so moving forward with
5 even a term sheet or any sort of idea of what a Plan would
6 look like.

7 And finally, the third factor cutting against
8 extending the exclusivity periods, whether the Debtors have
9 made progress in negotiations with its creditors and I think
10 you've heard from all parties today that any discussions are
11 in their infancy, they are, again, revolving around a
12 business plan on a post-effective date treatment and what
13 the business may look like. None of these discussions
14 indicate any progress towards resolving what a Plan
15 structure may look like or even -- are in broad terms there.

16 So with that, Your Honor, unless you have more
17 questions, I would cede the virtual podium to others on my
18 side who would like to present.

19 THE COURT: All right. Thank you.

20 Anyone else wish to add comments that are part of
21 the objection?

22 MR. BEAN: Yes, Your Honor, briefly.

23 THE COURT: Yes, sir. Ah, go ahead.

24 MR. BEAN: Thank you. Thomas Bean again.

25 Your Honor, I want to thank you for your

1 suggestion of potentially providing conditional approval of
2 the Disclosure Statement. Speed here is the order of the
3 day.

4 As Mr. Roach said, the Debtor has been using our
5 collateral for the last several months. Our collateral has
6 facilitated the Debtors' over performance relative to budget
7 -- dramatical over performance. The Debtor has not paid the
8 equipment lenders a dime and so frankly, they're in -- they
9 will have to pay the equipment lenders once the Plan is
10 confirmed on the equipment lenders' secured claims.

11 So right now, the Debtor is incentivized to slow
12 walk the case --

13 THE COURT: Right.

14 MR. BEAN: -- insofar as the equipment lenders are
15 concerned.

16 So we really appreciate your suggestion and hope
17 that Your Honor will -- you know, you offered to stay and
18 meet more regularly, stay on top of the case and we really
19 appreciate that offer.

20 We look forward to Debtors' emergence from
21 Chapter 11 as soon as possible.

22 Thank you very much.

23 THE COURT: All right. Thank you.

24 Anyone else?

25 (No audible response.)

1 THE COURT: Mr. Ruff, what is US Trustee's view of
2 the world right now?

3 MR. RUFF: Your Honor, good afternoon. Jayson
4 Ruff from the US Trustee's Office.

5 Honestly we want to see the Debtors get through as
6 quickly as possible and successfully as possible.

7 We don't really have a position on what the best
8 pathway forward is. I think we've heard some good
9 suggestions here today, both from the Court and from others.

10 And really that's about all where we're at right
11 now, Your Honor. The Debtors are not delinquent as far as
12 any of their obligations while they're in the 11. But
13 things have been a little bit longer, I think, than
14 originally anticipated, so.

15 But I think we're -- we've got a business plan and
16 now they're moving forward, so.

17 THE COURT: All right. Thank you.

18 Ms. Berkovich, did you want to respond to any of
19 the comments that you heard?

20 MS. BERKOVICH: Your Honor, responding to the
21 objections from the equipment lenders, they really have not
22 provided a good legal basis for denying exclusivity.

23 THE COURT: Yeah, so let me start again. So I
24 agree. The arguments that you heard were not particularly
25 persuasive. They, if anything, they slow the process down

1 more, as opposed to speeding it up. I tried to tell
2 everyone that when I came out and started the hearing. I
3 mean, I want practicality.

4 I don't want -- you know, I don't want a "I just
5 want to do something." I want a solution. I want a
6 direction. I want there to be a method to the madness and
7 haven't seen it from the objecting parties at all. It's not
8 a criticism, it's just an observation.

9 There are a million things that could have been
10 done to address some of the issues that were raised and what
11 I got was an objection to a motion.

12 What I do want is I want to start -- I want to
13 institute some things by which I can measure performance.
14 One of those is you've given a tentative date for the filing
15 of a Plan and Disclosure Statement. You know, I'm willing
16 to test to see how committed you are to that date and give
17 you a hearing date shortly after that date, just as a
18 status/scheduling conference.

19 And you know, I get the world can change. I am
20 not -- I'm not going to say that anything is ever an
21 absolute, but I will -- I'm inclined, unless you can give me
22 a good reason not to, to say I'm going to grant your motion
23 to extend exclusivity, but I'm going to set a
24 status/scheduling conference shortly after the date that
25 you've picked by which you think you're going to file a Plan

1 and Disclosure Statement. And I would hope to see a Plan
2 and Disclosure Statement at that time.

3 It doesn't mean that if you haven't made
4 substantial progress, and there's a joint request to
5 continue that status/scheduling conference, I wouldn't do
6 it. Again, people are frustrated. I hear it, but
7 frustration shouldn't come in the form of complaining.

8 I mean, you guys are all good lawyers.
9 Frustration should come in the form of "Here's how we go
10 about prompting action." And so that's what I want to see.

11 So you want to tell me that what I proposed is a
12 bad idea, is a good idea?

13 MS. BERKOVICH: Your Honor, I think the idea to
14 schedule a status conference is an excellent idea, even if
15 there's no Plan on file, and hopefully there will be. I
16 think it's a good chance to update the Court on the progress
17 that we will have made by then.

18 If it's possible, we'd like to deal with selecting
19 a date afterwards because I'd like to confer with
20 Mr. Schrock and just make sure that we pick a date that
21 works for all.

22 THE COURT: So long as you plug in the other
23 folks --

24 MS. BERKOVICH: Yes.

25 THE COURT: -- who were on the call today.

1 MS. BERKOVICH: Yes.

2 THE COURT: And just put that in the Order
3 extending exclusivity, setting that status/scheduling
4 conference, and again, without prejudice to anybody to raise
5 any issue they want. I just want to see where we are. I
6 want to see what progress has been made.

7 By then, hopefully you will have made substantial
8 progress, hopefully there will be something on file that I
9 can read as a Disclosure Statement and Plan or a combined
10 Plan and Disclosure Statement 'cause it shouldn't be that
11 difficult, but you know, I leave all of that to you-all.

12 Unless there are scheduling conflicts with
13 everybody, I'd like to have it within, say, a week after the
14 date that you had put -- which I think -- wasn't it the
15 18th?

16 MS. BERKOVICH: 15th.

17 THE COURT: 15th was your slide? Well, that's a
18 Saturday.

19 (Pause in the proceedings.)

20 MS. BERKOVICH: We put the 15th, but that's a
21 Saturday. We work on Saturdays here. So it wouldn't --

22 THE COURT: So I mean this in a legal sense, boo.

23 (Laughter)

24 THE COURT: So but let's do this: Let's go ahead
25 and say that -- because I had in my head the 18th. So you

1 know, Plan and Disclosure Statement, we're going to target
2 for July the 18th and I would like a status/scheduling
3 conference within a week of the 18th and just try to be --
4 try to make it as convenient for everyone as you possibly
5 can and just reach out to Mr. Alonzo, get everybody on the
6 string and he'll get you a date that hopefully will work for
7 everybody.

8 MS. BERKOVICH: Yes, Your Honor. We'll confer
9 with the major constituents and we will add something to the
10 exclusivity order that sets a scheduling conference for
11 something within the week of June 18th.

12 THE COURT: Oh, I was -- June 18th.

13 MALE SPEAKER: Yeah, Your Honor?

14 THE COURT: Yeah, I was focused on July. Let's
15 start that over.

16 So the 15th is a Thursday. All right?

17 MS. BERKOVICH: Yes.

18 THE COURT: Okay. Now we're back on, so my
19 apologies. You should just jump right in.

20 MS. BERKOVICH: Well, I don't have a calendar. I
21 didn't know if --

22 THE COURT: So you know, let's again, so 15th, so
23 the 18th, so really want to see something filed by the 20th
24 and if you will get a hearing within a week of the 20th.
25 Again, that would be June of the 2023.

1 MS. BERKOVICH: That is understood and we will do.

2 THE COURT: All right. And it goes without saying
3 with respect to everyone else, if there are changed
4 circumstances, I want to know about it and it's not hard to
5 get a hearing. All you need to do is to reach out and tell
6 Mr. Alonzo that you have an emergency and you generally --
7 he finds time that meets your schedules. All right?

8 MS. BERKOVICH: Yes.

9 THE COURT: Anything else we need to talk about
10 today?

11 MS. BERKOVICH: No, Your Honor. Thank you very
12 much.

13 THE COURT: Anyone else on the line?

14 (No audible response.)

15 THE COURT: All right, terrific. Then everyone
16 have a good day. We'll be adjourned.

17 (Hearing adjourned at 2:40 p.m.)

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1 I certify that the foregoing is a correct
2 transcript to the best of my ability due to the condition of
3 the electronic sound recording of the ZOOM/video/telephonic
4 proceedings in the above-entitled matter.

5 /S/ MARY D. HENRY

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10 DATE FILED: MAY 29, 2023